

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN MIKE TAYLOR**, on January 9, 2001 at 8:00 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Mike Taylor, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Edward Butcher (R)
Sen. Vicki Cocchiarella (D)
Sen. Sam Kitzenberg (R)
Sen. Dale Mahlum (R)
Sen. Glenn Roush (D)
Sen. Don Ryan (D)

Members Excused: Sen. Dale Berry (R)

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Kyanne Kelly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB112, 1/6/2001; SB106,
1/6/2001; SB93, 1/6/2001;
SB74, 1/6/2001

Executive Action:

HEARING ON SB 112

Sponsor: SENATOR LINDA NELSON, SD49, Medicine Lake

Proponents: John Northey, Legislative Audit Division
Drew Dawson, Chief of the Health Systems Bureau
Troy McGee, Chief Of Police, Helena
Jane Jelinski, Montana Association of Counties
Kathy McGowen, Montana Peace Officers Association
Tony Hubert, Department of Administration

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 1.6}

SENATOR LINDA NELSON, SD49, Medicine Lake, said the bill is the result of an audit reviewed by the Audit Committee in the interim. It was discovered that while the law requires the Department of Administration (DOA) to invest all 911 monies, and to use the funds for approved telecommunication plans, the Department of Administration does not have the authority to invest the funds in its 911 accounts. She thought that since the legislature intended all 911 monies to go into the account, be invested, and to go to the cities and counties for the emergency services, the law really needs to be clarified.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 2.5}

John Northey, Legislative Audit Division explained that the current law provides that when 911 funds are distributed to local government entities the laws mandates and authorizes local governments to invest those funds and use them for the 911 program. This bill would make the same provision for the state. When the state receives the funds there is a time lag between the time they are received and they are distributed. He further explained that these funds are invested during that time, and the law does not currently provide for the investment income to follow the 911 funds. Under general state law, if there is no specific provision those monies go to the general fund. He noted there is a retroactivity section, section 3 of the bill. This would in effect justify what the Department of Administration has been doing for a number of years. He stated the investment income has been distributed to local governments in good faith and

expended by them in good faith for the 911 program. He concluded that this bill would ratify what the department has been doing, and is essentially a housekeeping bill.

Drew Dawson, Department of Public Health and Human Services, supports this bill and handed in written testimony to this effect. **EXHIBIT (bus06a01)**

Troy McGee, Chief of Police, Helena, representing the chiefs of Police Association, stated they are in strong support of the bill.

Jane Jelinski, Montana Association of Counties, supports this bill. She explained that if this bill does not pass the 911 jurisdictions would have to send money back to the general fund and reduce their efforts.

Kathy McGowen, Montana Sheriff's and Peace Officers Association, said the Association voted unanimously in strong support of this bill.

Tony Herbert, Department of Administration, said he strongly supports this bill.

Opponents' Testimony: None

Questions from Committee Members and Responses:
{Tape : 1; Side : A; Approx. Time Counter : 6.5}

SENATOR MIKE SPRAGUE asked how much it would cost the local governments if they had to refund the money to the state.

Jane Jelinski stated she thought it was in the hundreds of thousands of dollars.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 7.7}

SENATOR LINDA NELSON said it is obvious that this is a housekeeping bill. The local governments need this money for their 911 emergency services. She explained that was the intent, it just needs to be clarified in the law

HEARING ON SB 106

Sponsor: SENATOR MIKE SPRAGUE, SD 6, BILLINGS

Proponents: John Cadby, Montana Banking Association
George Bennett, Montana Banking Association
Keith Colbo, Montana Independent Bankers
Michael P. Varone, Wells Fargo Bank
Phil Johnson, First Interstate Bank

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 8.1}

SENATOR MIKE SPRAGUE, SD 6, Billings, stated that the intent of the bill was to come up with a solution to a problem that may or may not exist. The bill is requiring that any loans over \$100,000 dollars have to be in writing.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 10.5}

John Cadby, Montana Banker's Association, spoke of the abundance of bad faith law suits against lenders in the mid 80's. He explained that most of the bad faith law suits were brought about by farmers and ranchers who were complaining that the banker didn't lend them enough money, and therefore they went broke. He point out that in every case the verbal agreements after the original loan had been entered into caused the litigation. He said most neighboring states have passed similar limitations.

EXHIBIT (bus06a05)

George Bennett, Montana Banking Association, stated Montana and Wyoming are the only states that don't have protection for lenders from assertions of oral commitment. **EXHIBIT (bus06a02)**

Keith Colbo, Montana Independent Bankers, stated this bill is supported by the Montana Independent Bankers.

Michael P. Varone, Wells Fargo Bank, stated Wells Fargo does require a loan agreement for loans in excess of \$100,000. He stated Wells Fargo supports this bill to stop the bad faith law suits which were going on. He noted that this bill would curtail law suits based on assertions or claims by a borrow who may have

incorrectly interpreted what a loan officer had said.

EXHIBIT(bus06a03)

Phil Johnson, First Interstate Bank, handed in his testimony.

EXHIBIT(bus06a04)

Opponents' Testimony: None

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 23.1}

SENATOR VICKI COCCHIARELLA asked why you would have an agreement that was not signed.

George Bennett explained that this allows the banker to fax a document which has not been signed which evidences his commitment to lend money.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 27.8}

SENATOR MIKE SPRAGUE concluded that what you don't see on paper you will have a hard time enforcing.

HEARING ON SB93

Sponsor: **SENATOR MIKE HALLIGAN SD 34, MISSOULA**

Proponents: **George Bennett, Montana Banking Association
Bob Pyfer, Montana Credit Union Network
Keith Colbo, Montana Independent Bankers**

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 0.5}

SENATOR MIKE HALLIGAN, SD 34, Missoula, said this bill was to clarify some things that were left out of the Uniform Commercial Code, dealing with lost, stolen or destroyed checks.

Proponents' Testimony:

{Tape : 1; Side : B; Approx. Time Counter : 1}

George Bennett, Montana Banker's Association explained that when article 3 of the Uniform Commercial Code was last revised, this particular section was left out. This section sets up a procedure to remedy a situation where a check has been stolen or lost. Without this provision checks can be in limbo for some time.

Bob Pyfer, Montana Credit Union League stated this bill would facilitate the replacement of lost checks.

Keith Colbo, Montana Independent Bankers, supports this bill.

Opponents' Testimony: None

Questions from Committee Members and Responses:

{Tape : 1; Side : B; Approx. Time Counter : 5.8}

SENATOR GLENN ROUSH asked about the 90 day waiting period for lost checks.

Bob Pyfer said that most checks turn up within 90 days. He said this applies to cashier checks or certified checks, not a check written on the customers account.

SENATOR SPRAGUE asked how long a certified check could be lost before the banks no longer has liability.

Bob Pyfer said there was no time limit on that, and that is what this bill provides for.

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 13.3}

SENATOR MIKE HALLIGAN said this bill would aid commerce.

HEARING ON SB 74

Sponsor: SENATOR WALTER L. McNUTT, SD 50, SIDNEY

Proponents: Tom Zimmer, Tri-State Truck & Equipment
Mike Matz, Western Plains Machinery Company
Duane Merkanfast, John Deere Dealer

Brad Griffin, Montana Retail Equipment Association
Webb Brown, Montana Chamber of Commerce
Charles Brooks, Billings Chamber of Commerce

Opponents: **Riley Johnson, Equipment Manufacturing Association**
 Annie Barris, Department of Commerce

Opening Statement by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 15.5}

SENATOR WALTER MCNUTT, SD 50, Sidney explained this bill adds a section including construction equipment dealers in the law that covers contracts of adhesion for farm equipment dealers.

Proponents' Testimony:

{Tape : 1; Side : B; Approx. Time Counter : 22.2}

Tom Zimmer, Tri-State Truck & Equipment stated there have been a lot of mergers and consolidations in the equipment field. He wanted the construction equipment distributors investment to be protected in the case of merger and consolidation by the national distributors

Mike Matz, Western Plains Machinery Company stated that when he bought his company he believed he was covered under this law.

Duane Merkanfast, John Deere Dealer is very supportive of this legislation.

Brad Griffin, Montana Retail Equipment Association handed out information which showed all the different provisions of a bill like this. **EXHIBIT (bus06a06)** He stated 41 states already have this buy back provision.

Webb Brown, Montana Chamber of Commerce stated the provisions in the bill are reasonable, and he supports the bill.

Charles Brooks, Billings Chamber of Commerce said this bill is protection for small equipment dealers.

Opponents' Testimony:

{Tape : 2; Side : A; Approx. Time Counter : 5.1}

Riley Johnson, Equipment Manufacturer's Association said they oppose this bill on the grounds that this is not a franchise, but a contract.

Informational Witnesses

Annie Barris, Department of Commerce said this bill is placed in the Department of Commerce for oversight, and she made herself available to answer questions.

Questions from Committee Members and Responses:

{Tape : 2; Side : A; Approx. Time Counter : 14.2}

SENATOR VICKI COCCHIARELLA asked **Mr. Zimmer** if this bill had to do with buyback.

Tom Zimmer said it did have to do with buyback.

SENATOR DALE MAHLUM asked **Riley Johnson** if this bill would preclude manufacturers from wanting to do business in Montana.

Riley Johnson stated that was a very realistic position to take.

Closing by Sponsor:

{Tape : 2; Side : B; Approx. Time Counter : 2.9}

SENATOR MCNUTT state that manufacturers decide what's in the contract and the dealers can't alter the contract. He said this bill will not drive manufacturers out of the state.

ADJOURNMENT

Adjournment: 10:15 A.M.

SEN. MIKE TAYLOR, Chairman

KYANNE KELLY, Secretary

MT/KK

EXHIBIT (bus06aad)